



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

most of the original states, either by statute or by usage, even before the Revolution. See GOULD, WATERS, 3 ed., §§ 169 ff. In other jurisdictions, abandoning the old law, it is said that the state holds the *jus privatum* in trust for the public, who derive benefit from the erection of wharves. *People v. Mould*, 37 N. Y. App. Div. 35. Another view is that the littoral owner has an interest in the beach, including the right to wharf out. *Tuck v. Olds*, 29 Fed. Rep. 738. But this right is always subject to state regulation. *Lincoln v. Davis*, 53 Mich. 375. The present case seems to state the best reasons for departing from the old rule. It holds that the right to wharf out is a necessary part of a right of access to navigable water, and that the purpresture doctrine, since it would be a great hindrance to commerce, is inapplicable to American conditions. The doctrine, however, is still recognized by some courts. *Shively v. Bowlby*, 152 U. S. 1.

BOOKS AND PERIODICALS.

I. LEADING LEGAL ARTICLES.

THE FEDERAL POLICE POWER. — In these days of federal activity there are no questions of more vital interest than those relating to the ramifications of the power of Congress to regulate commerce. The constitutional aspects of proposed legislation are considered by Edwin Maxey in a recent article. *The Constitutionality of the Beveridge Child Labor Bill*, 19 Green Bag 290 (May, 1907). The bill discussed proposes to prohibit carriers of interstate commerce accepting from the operators for transportation the products of any factory or mine in which children under fourteen years of age are employed, and to impose penalties on both carrier and operator for violation of the provisions. The writer contends that as the regulation is directed to operate upon processes of production which are completed before distribution begins, it is not regulation of commerce within the decisions of the Supreme Court, but rather a regulation of manufacture or mining. It is his conclusion that such a measure could only be sustained as an exercise of the police power of the federal government.

The courts of sixty years ago would have been startled at the use of the phrase "police power" in such a connection. In its origin this term was used to denote the residuum of undefined powers vested in the state governments.¹ In its later use it seems to indicate a class of powers of government directed particularly toward the conservation of the public health, morals and other interests which closely concern the well-being of the state, — powers so important that the written constitutions of state and nation are carefully construed to give them the greatest possible latitude. It is on the existence of such powers in the federal government that the writer conceives the constitutionality of this proposed legislation to depend. That the Supreme Court considers that it has some such power is not open to doubt. The strongest utterance on the subject was the Lottery Case,² where the court in justifying prohibition of interstate commerce said: "As a state may, for the purpose of guarding the morals of its own people, forbid all sales of lottery tickets within its limits, so Congress, for the purpose of guarding the people of the United States against the 'wide-spread pestilence of lotteries' and to protect the commerce which concerns all the states, may prohibit the carrying of lottery tickets from one state to another." A former decision of the court seems to indicate the source of this power, the concept being, apparently, that a grant of power to the federal government carries with it a right to use that power for the protection of the public in the same manner that the state itself might have used it had the power been retained.³

¹ See Police Power of the State, 39 Proc. Am. Phil. Soc. 359; What is the Police Power?, 7 Colum. L. Rev. 322.

² 188 U. S. 321.

³ See *In re Rapier*, 143 U. S. 110.

If that is the true basis of the doctrine, there seems no limit, aside from express constitutional limitations, to the power of Congress to use the machinery of interstate commerce regulation for the protection of national interests. In view, however, of the strong dissent in the Lottery Case,² it may be doubted whether the court would carry the principle to its logical conclusion. Certainly the health of the community is of no less interest to the government than its morals. The broad principle involved, moreover, seems to admit of no division on the ground that the proposed legislation is directed to the protection of those who might deal with the goods before distribution, rather than of those into whose hands they might come through interstate transportation.

- ANALYSIS OF THE LEGAL VALUE OF A LABOR UNION CONTRACT, AN. *Frank W. Grinnell*. Dealing with "closed shop" and "arbitration" agreements. 41 Am. L. Rev. 197. See 18 HARV. L. REV. 423, 444.
- APPELLATE JURISDICTION. *Everett P. Wheeler*. Its abuse, particularly under narrow New York rulings. 7 Colum. L. Rev. 248.
- CHILD EN VENTRE SA MÈRE. *Anon.* Discussing under what circumstances a child *en ventre sa mère* is in law treated as born. 51 Sol. J. 354. See 20 HARV. L. REV. 651.
- COMMERCE CLAUSE OF THE FEDERAL CONSTITUTION AND TWO RECENT CASES DEALING WITH IT, THE. *S. S. Gregory*. Discussing the Federal Employers' Liability Act. 5 Mich. L. Rev. 419. See 20 HARV. L. REV. 381.
- CONSPIRACY AS A CRIME AND AS A TORT. *Francis M. Burdick*. 7 Colum. L. Rev. 229.
- CONSTITUTIONALITY OF THE BEVERIDGE CHILD LABOR BILL, THE. *Edwin Maxey*. 19 Green Bag 290. See *supra*.
- CONTRACTS FOR SALE BY TRUSTEES. *Anon.* Considering the effect in England of a defect in the trustee's power to sell, upon a contract to sell land. 51 Sol. J. 302.
- "CUJUS EST SOLUM EJUS EST USQUE AD CÆLUM." *S. Varadachari*. Discussing the right of the owner of a cornice that projects over another man's land to the air space occupied by the cornice for the period of the statute of limitations. 17 Madras L. J. 1. See 19 HARV. L. REV. 369.
- DEFECTS OF THE ARMSTRONG COMMITTEE'S LEGISLATION RELATING TO THE DIVIDENDS OF MUTUAL LIFE INSURANCE POLICY HOLDERS. *Samuel B. Clarke*. 41 Am. L. Rev. 161.
- DOCTRINE OF COMMON EMPLOYMENT IN ENGLAND AND CANADA, THE. II. *J. P. McGregor*. 6 Can. L. Rev. 24, 61, 110.
- EVOLUTION OF THE LAW OF TRADE UNIONS, THE. *John H. Romanes*. 23 Scot. L. Rev. 73.
- EXECUTIVE JUSTICE. *Roscoe Pound*. Pointing out the modern tendency to allow greater freedom to summary executive action. 55 Am. L. Reg. 137.
- EXEMPTION OF PRIVATE PROPERTY AT SEA FROM CAPTURE IN TIME OF WAR, THE. *Sir William R. Kennedy*. Advocating an amendment of the Declaration of Paris in order to bring within the exemption all private property. 16 Yale L. J. 381.
- IN MEMORIAM: FREDERICK WILLIAM MAITLAND. *O. W. Holmes, John C. Gray, R. Saleilles, Paul Meyer, Heinrich Brunner, F. Liebermann, Joseph Redlich, A. Zocco-Rosa*. 23 L. Quar. Rev. 137.
- JAPANESE SCHOOL INCIDENT AT SAN FRANCISCO FROM THE POINT OF VIEW OF INTERNATIONAL AND CONSTITUTIONAL LAW, THE. *Theodore P. Ion*. 5 Mich. L. Rev. 326. See 20 HARV. L. REV. 337.
- LEGAL STATUS OF THE PANAMA CANAL ZONE, THE. *Charles R. Williams*. 15 Am. Lawyer 125.
- OPTION-CONTRACT QUANDARIES IN ILLINOIS LAW, SOME. *George Packard*. A consideration of the legality of board of trade transactions at common law and under the Illinois statutes. 1 Ill. L. Rev. 571.
- OPTIONS TO PURCHASE THE FEE SIMPLE IN LEASES. *Anon.* Criticizing two recent English cases. 51 Sol. J. 319. See 20 HARV. L. REV. 240.
- POSSESSION AND OWNERSHIP. I. *Albert S. Thayer*. Discussing the fundamental nature of these rights. 23 L. Quar. Rev. 175. See 3 HARV. L. REV. 23, 313, 337; 18 *ibid.* 196; 20 *ibid.* 563.
- POWER OF APPELLATE COURTS TO CUT DOWN EXCESSIVE VERDICTS, THE. *Robert L. McWilliams*. 64 Cent. L. J. 267.

- PURCHASER AT SHERIFF'S SALE: WHEN A TRUSTEE. *Roland R. Foulke*. A summary of the law of Pennsylvania on this point. 55 Am. L. Reg. 147.
- REASONABLE TIME IN THE PERFORMANCE OF CONTRACTS. *Anon.* Maintaining that the question of reasonable time is for the jury. 64 Cent. L. J. 245.
- SPANISH OBJECT-LESSON IN CODE-MAKING, A. *Charles Sumner Lobinger*. 16 Yale L. J. 411.
- STATUS OF FOREIGN CORPORATIONS AND THE LEGISLATURE. I. *E. Hilton Young*. 23 L. Quar. Rev. 151.
- SUGGESTIONS ON THE PROPOSAL TO ENACT THE "UNIFORM NEGOTIABLE INSTRUMENTS LAW" IN ILLINOIS, SOME. *Julian W. Mack*. 1 Ill. L. Rev. 592.
- TRUE REMEDY FOR LYNCH-LAW, THE. *Hannis Taylor*. Advocating the Virginia modification of the American system of criminal procedure. 41 Am. L. Rev. 255. See 17 HARV. L. REV. 317.
- UNIFORM LAW RELATING TO ANNULMENT OF MARRIAGE AND DIVORCE. *Walter George Smith*. 64 Cent. L. J. 229.
- WILL OF AN ENGLISH GENTLEMAN OF MODERATE FORTUNE, THE. *Albert Martin Kales*. Suggestions for making valid dispositions. 19 Green Bag 214.
- WRITS OF ERROR AND APPEALS FROM THE NEW TERRITORIAL COURTS. *Howard T. Kingsbury*. Discussing especially remedies for obtaining review of the decisions of the Philippine Supreme Court. 16 Yale L. J. 417.

II. BOOK REVIEWS.

MODERN BUSINESS CORPORATIONS, including the Organization and Management of Private Corporations, with Financial Principles and Practices, etc. By William Allen Wood. Forms of Procedure illustrative of the Formation, Organization, Operation and Consolidation of Corporations, written or selected by Lewis B. Ewbank. Indianapolis: The Bobbs-Merrill Company. 1906. pp. xi, 358. 8vo.

It is often difficult to determine the exact field of usefulness of a book treating a legal or partly legal subject. The present work is not strictly a text-book of corporation law, nor is it peculiarly useful to the business man. It is not technical enough for the lawyer and is too technical for the layman. Perhaps the ideal purpose of this book would be as the basis of a course to instruct students concerning some of the fundamental principles of modern business. The author has certainly included many things in the book of which the average lawyer may be ignorant, but whenever the practical lawyer is called on to deal with such questions, he will be forced to learn them far more thoroughly than any summary from a text-book can teach him, if he desires to give efficient service to his clients.

The first half of Mr. Wood's book is neither as interesting nor as useful as the last. It is principally devoted to the organization of a corporation and contains little that is new to the lawyer. Yet the author is too wise to attempt to instruct a layman in order that he may form his own corporations without legal aid. The second half of the book is more interesting, as it is more technical. The first chapter on corporate book-keeping is valuable and interesting, and is followed by a number of useful forms. The remainder of the book is comprised of miscellaneous information concerning the size of corporations, distribution of corporate wealth, unintelligent competition, etc. Among these miscellaneous articles the author has included one on trusts and voting trusts. He introduces this by a statement that since combination in the form of a trust has been declared illegal, a trust no longer exists in this country. By a parity of reasoning, every form of monopoly is now non-existent in the United States, a truly happy deliverance.

The legal principles enunciated by the author are, however, generally unexceptionable. Perhaps he may be a trifle too certain of the validity of voting trusts, as the entire question is doubtful. We would suggest, however, that one correction be made. On page 299 he states that if a foreign corporation is involved in a suit exceeding \$2000.00, it may remove the cause to the United